
HOUSE BILL No. 1654

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-3.5-7; IC 15-7-10; IC 32-24-1-5.4.

Synopsis: Farmland preservation. Creates the farmland protection program administered by the land resources council. Establishes the amount of damages that apply when protected farmland is condemned under eminent domain. Creates the farmland protection program account, and appropriates \$5,000,000 to the account from the state general fund. Establishes the county farmland protection fund. Allows a county to impose an additional county economic development income tax rate of 0.1% for farmland protection, and requires deposit of the tax revenue in the fund.

Effective: July 1, 2005.

Lehe, Ruppel

January 19, 2005, read first time and referred to Committee on Agriculture and Rural Development.

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Introduced

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

HOUSE BILL No. 1654

A BILL FOR AN ACT to amend the Indiana Code concerning agriculture and animals and to make an appropriation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 6-3.5-7-5 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) Except as
3 provided in subsection (c), the county economic development income
4 tax may be imposed on the adjusted gross income of county taxpayers.
5 The entity that may impose the tax is:
6 (1) the county income tax council (as defined in IC 6-3.5-6-1) if
7 the county option income tax is in effect on January 1 of the year
8 the county economic development income tax is imposed;
9 (2) the county council if the county adjusted gross income tax is
10 in effect on January 1 of the year the county economic
11 development tax is imposed; or
12 (3) the county income tax council or the county council,
13 whichever acts first, for a county not covered by subdivision (1)
14 or (2).
15 To impose the county economic development income tax, a county
16 income tax council shall use the procedures set forth in IC 6-3.5-6
17 concerning the imposition of the county option income tax.

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(b) Except as provided in subsections (c), (g), (k), (p), ~~and~~ (r), **and (t)**, the county economic development income tax may be imposed at a rate of:

- (1) one-tenth percent (0.1%);
- (2) two-tenths percent (0.2%);
- (3) twenty-five hundredths percent (0.25%);
- (4) three-tenths percent (0.3%);
- (5) thirty-five hundredths percent (0.35%);
- (6) four-tenths percent (0.4%);
- (7) forty-five hundredths percent (0.45%); or
- (8) five-tenths percent (0.5%);

on the adjusted gross income of county taxpayers.

(c) Except as provided in subsection (h), (i), (j), (k), (l), (m), (n), (o), ~~or~~ (p), **or (t)**, the county economic development income tax rate plus the county adjusted gross income tax rate, if any, that are in effect on January 1 of a year may not exceed one and twenty-five hundredths percent (1.25%). Except as provided in subsection (g), ~~or~~ (p), **or (t)**, the county economic development tax rate plus the county option income tax rate, if any, that are in effect on January 1 of a year may not exceed one percent (1%).

(d) To impose, increase, decrease, or rescind the county economic development income tax, the appropriate body must, after January 1 but before April 1 of a year, adopt an ordinance. The ordinance to impose the tax must substantially state the following:

"The _____ County _____ imposes the county economic development income tax on the county taxpayers of _____ County. The county economic development income tax is imposed at a rate of _____ percent (____%) on the county taxpayers of the county. This tax takes effect July 1 of this year."

(e) Any ordinance adopted under this chapter takes effect July 1 of the year the ordinance is adopted.

(f) The auditor of a county shall record all votes taken on ordinances presented for a vote under the authority of this chapter and shall, not more than ten (10) days after the vote, send a certified copy of the results to the commissioner of the department by certified mail.

(g) This subsection applies to a county having a population of more than one hundred forty-eight thousand (148,000) but less than one hundred seventy thousand (170,000). Except as provided in ~~subsection~~ **subsections (p) and (t)**, in addition to the rates permitted by subsection (b), the:

- (1) county economic development income tax may be imposed at a rate of:

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(A) fifteen-hundredths percent (0.15%);

(B) two-tenths percent (0.2%); or

(C) twenty-five hundredths percent (0.25%); and

(2) county economic development income tax rate plus the county option income tax rate that are in effect on January 1 of a year may equal up to one and twenty-five hundredths percent (1.25%); if the county income tax council makes a determination to impose rates under this subsection and section 22 of this chapter.

(h) For a county having a population of more than forty-one thousand (41,000) but less than forty-three thousand (43,000), except as provided in ~~subsection~~ **subsections (p) and (t)**, the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and thirty-five hundredths percent (1.35%) if the county has imposed the county adjusted gross income tax at a rate of one and one-tenth percent (1.1%) under IC 6-3.5-1.1-2.5.

(i) For a county having a population of more than thirteen thousand five hundred (13,500) but less than fourteen thousand (14,000), except as provided in ~~subsection~~ **subsections (p) and (t)**, the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and fifty-five hundredths percent (1.55%).

(j) For a county having a population of more than seventy-one thousand (71,000) but less than seventy-one thousand four hundred (71,400), except as provided in ~~subsection~~ **subsections (p) and (t)**, the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%).

(k) This subsection applies to a county having a population of more than twenty-seven thousand four hundred (27,400) but less than twenty-seven thousand five hundred (27,500). Except as provided in ~~subsection~~ **subsections (p) and (t)**, in addition to the rates permitted under subsection (b):

(1) the county economic development income tax may be imposed at a rate of twenty-five hundredths percent (0.25%); and

(2) the sum of the county economic development income tax rate and the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%);

if the county council makes a determination to impose rates under this subsection and section 22.5 of this chapter.

(l) For a county having a population of more than twenty-nine

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thousand (29,000) but less than thirty thousand (30,000), except as provided in ~~subsection~~ **subsections (p) and (t)**, the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%).

(m) For:

(1) a county having a population of more than one hundred eighty-two thousand seven hundred ninety (182,790) but less than two hundred thousand (200,000); or

(2) a county having a population of more than forty-five thousand (45,000) but less than forty-five thousand nine hundred (45,900); except as provided in ~~subsection~~ **subsections (p) and (t)**, the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%).

(n) For a county having a population of more than six thousand (6,000) but less than eight thousand (8,000), except as provided in ~~subsection~~ **subsections (p) and (t)**, the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%).

(o) This subsection applies to a county having a population of more than thirty-nine thousand (39,000) but less than thirty-nine thousand six hundred (39,600). Except as provided in ~~subsection~~ **subsections (p) and (t)**, in addition to the rates permitted under subsection (b):

(1) the county economic development income tax may be imposed at a rate of twenty-five hundredths percent (0.25%); and

(2) the sum of the county economic development income tax rate and:

(A) the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%); or

(B) the county option income tax rate that are in effect on January 1 of a year may not exceed one and twenty-five hundredths percent (1.25%);

if the county council makes a determination to impose rates under this subsection and section 24 of this chapter.

(p) In addition:

(1) the county economic development income tax may be imposed at a rate that exceeds by not more than twenty-five hundredths percent (0.25%) the maximum rate that would otherwise apply under this section; and

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(2) the:

(A) county economic development income tax; and

(B) county option income tax or county adjusted gross income tax;

may be imposed at combined rates that exceed by not more than twenty-five hundredths percent (0.25%) the maximum combined rates that would otherwise apply under this section.

However, the additional rate imposed under this subsection may not exceed the amount necessary to mitigate the increased ad valorem property taxes on homesteads (as defined in IC 6-1.1-20.9-1) resulting from the deduction of the assessed value of inventory in the county under IC 6-1.1-12-41 or IC 6-1.1-12-42.

(q) If the county economic development income tax is imposed as authorized under subsection (p) at a rate that exceeds the maximum rate that would otherwise apply under this section, the certified distribution must be used for the purpose provided in section 25(e) or 26 of this chapter to the extent that the certified distribution results from the difference between:

(1) the actual county economic development tax rate; and

(2) the maximum rate that would otherwise apply under this section.

(r) This subsection applies only to a county described in section 27 of this chapter. Except as provided in ~~subsection~~ **subsections (p) and (t)**, in addition to the rates permitted by subsection (b), the:

(1) county economic development income tax may be imposed at a rate of twenty-five hundredths percent (0.25%); and

(2) county economic development income tax rate plus the county option income tax rate that are in effect on January 1 of a year may equal up to one and twenty-five hundredths percent (1.25%);

if the county council makes a determination to impose rates under this subsection and section 27 of this chapter.

(s) Except as provided in ~~subsection~~ **subsections (p) and (t)**, the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%) if the county has imposed the county adjusted gross income tax under IC 6-3.5-1.1-3.3.

(t) For the purpose described in section 28 of this chapter:

(1) the county economic development income tax may be imposed at a rate that exceeds by not more than one tenth percent (0.1%) the maximum rate that would otherwise apply under this section; and

(2) the:

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1 **(A) county economic development income tax; and**
 2 **(B) county option income tax or county adjusted gross**
 3 **income tax;**
 4 **may be imposed at combined rates that exceed by not more**
 5 **than one tenth percent (0.1%) the maximum combined rates**
 6 **that would otherwise apply under this section.**

7 SECTION 2. IC 6-3.5-7-6 IS AMENDED TO READ AS
 8 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. (a) The body
 9 imposing the tax may decrease or increase the county economic
 10 development income tax rate imposed upon the county taxpayers as
 11 long as the resulting rate does not exceed the rates specified in section
 12 ~~5(b) and 5(c) or 5(g)~~ 5 of this chapter. The rate imposed under this
 13 section must be adopted at one (1) of the rates specified in section 5(b)
 14 of this chapter. To decrease or increase the rate, the appropriate body
 15 must, after January 1 but before April 1 of a year, adopt an ordinance.
 16 The ordinance must substantially state the following:

17 "The _____ County _____ increases (decreases) the
 18 county economic development income tax rate imposed upon the
 19 county taxpayers of the county from _____ percent (____%) to
 20 _____ percent (____%). This tax rate increase (decrease) takes
 21 effect July 1 of this year."

22 (b) Any ordinance adopted under this section takes effect July 1 of
 23 the year the ordinance is adopted.

24 (c) The auditor of a county shall record all votes taken on
 25 ordinances presented for a vote under the authority of this section and
 26 immediately send a certified copy of the results to the department by
 27 certified mail.

28 SECTION 3. IC 6-3.5-7-12 IS AMENDED TO READ AS
 29 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 12. (a) Except as
 30 provided in sections 23, 25, 26, ~~and 27~~, **and 28** of this chapter, the
 31 county auditor shall distribute in the manner specified in this section
 32 the certified distribution to the county.

33 (b) Except as provided in subsections (c) and (h) and sections 15
 34 and 25 of this chapter, the amount of the certified distribution that the
 35 county and each city or town in a county is entitled to receive during
 36 May and November of each year equals the product of the following:

- 37 (1) The amount of the certified distribution for that month;
 38 multiplied by
 39 (2) A fraction. The numerator of the fraction equals the sum of the
 40 following:

41 (A) Total property taxes that are first due and payable to the
 42 county, city, or town during the calendar year in which the

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month falls; plus

(B) For a county, an amount equal to the property taxes imposed by the county in 1999 for the county's welfare fund and welfare administration fund.

The denominator of the fraction equals the sum of the total property taxes that are first due and payable to the county and all cities and towns of the county during the calendar year in which the month falls, plus an amount equal to the property taxes imposed by the county in 1999 for the county's welfare fund and welfare administration fund.

(c) This subsection applies to a county council or county income tax council that imposes a tax under this chapter after June 1, 1992. The body imposing the tax may adopt an ordinance before July 1 of a year to provide for the distribution of certified distributions under this subsection instead of a distribution under subsection (b). The following apply if an ordinance is adopted under this subsection:

(1) The ordinance is effective January 1 of the following year.

(2) Except as provided in sections 25 and 26 of this chapter, the amount of the certified distribution that the county and each city and town in the county is entitled to receive during May and November of each year equals the product of:

(A) the amount of the certified distribution for the month; multiplied by

(B) a fraction. For a city or town, the numerator of the fraction equals the population of the city or the town. For a county, the numerator of the fraction equals the population of the part of the county that is not located in a city or town. The denominator of the fraction equals the sum of the population of all cities and towns located in the county and the population of the part of the county that is not located in a city or town.

(3) The ordinance may be made irrevocable for the duration of specified lease rental or debt service payments.

(d) The body imposing the tax may not adopt an ordinance under subsection (c) if, before the adoption of the proposed ordinance, any of the following have pledged the county economic development income tax for any purpose permitted by IC 5-1-14 or any other statute:

(1) The county.

(2) A city or town in the county.

(3) A commission, a board, a department, or an authority that is authorized by statute to pledge the county economic development income tax.

(e) The department of local government finance shall provide each

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1 county auditor with the fractional amount of the certified distribution
 2 that the county and each city or town in the county is entitled to receive
 3 under this section.

4 (f) Money received by a county, city, or town under this section
 5 shall be deposited in the unit's economic development income tax fund.

6 (g) Except as provided in subsection (b)(2)(B), in determining the
 7 fractional amount of the certified distribution the county and its cities
 8 and towns are entitled to receive under subsection (b) during a calendar
 9 year, the department of local government finance shall consider only
 10 property taxes imposed on tangible property subject to assessment in
 11 that county.

12 (h) In a county having a consolidated city, only the consolidated city
 13 is entitled to the certified distribution, subject to the requirements of
 14 sections 15, 25, and 26 of this chapter.

15 SECTION 4. IC 6-3.5-7-13.1 IS AMENDED TO READ AS
 16 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 13.1. (a) The fiscal
 17 officer of each county, city, or town for a county in which the county
 18 economic development tax is imposed shall establish an economic
 19 development income tax fund. Except as provided in sections 23, 25,
 20 26, ~~and 27~~, **and 28** of this chapter, the revenue received by a county,
 21 city, or town under this chapter shall be deposited in the unit's
 22 economic development income tax fund.

23 (b) Except as provided in sections 15, 23, 25, 26, ~~and 27~~, **and 28** of
 24 this chapter, revenues from the county economic development income
 25 tax may be used as follows:

26 (1) By a county, city, or town for economic development projects,
 27 for paying, notwithstanding any other law, under a written
 28 agreement all or a part of the interest owed by a private developer
 29 or user on a loan extended by a financial institution or other
 30 lender to the developer or user if the proceeds of the loan are or
 31 are to be used to finance an economic development project, for
 32 the retirement of bonds under section 14 of this chapter for
 33 economic development projects, for leases under section 21 of
 34 this chapter, or for leases or bonds entered into or issued prior to
 35 the date the economic development income tax was imposed if
 36 the purpose of the lease or bonds would have qualified as a
 37 purpose under this chapter at the time the lease was entered into
 38 or the bonds were issued.

39 (2) By a county, city, or town for:

40 (A) the construction or acquisition of, or remedial action with
 41 respect to, a capital project for which the unit is empowered to
 42 issue general obligation bonds or establish a fund under any

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statute listed in IC 6-1.1-18.5-9.8;

(B) the retirement of bonds issued under any provision of Indiana law for a capital project;

(C) the payment of lease rentals under any statute for a capital project;

(D) contract payments to a nonprofit corporation whose primary corporate purpose is to assist government in planning and implementing economic development projects;

(E) operating expenses of a governmental entity that plans or implements economic development projects;

(F) to the extent not otherwise allowed under this chapter, funding substance removal or remedial action in a designated unit; or

(G) funding of a revolving fund established under IC 5-1-14-14.

(c) As used in this section, an economic development project is any project that:

(1) the county, city, or town determines will:

(A) promote significant opportunities for the gainful employment of its citizens;

(B) attract a major new business enterprise to the unit; or

(C) retain or expand a significant business enterprise within the unit; and

(2) involves an expenditure for:

(A) the acquisition of land;

(B) interests in land;

(C) site improvements;

(D) infrastructure improvements;

(E) buildings;

(F) structures;

(G) rehabilitation, renovation, and enlargement of buildings and structures;

(H) machinery;

(I) equipment;

(J) furnishings;

(K) facilities;

(L) administrative expenses associated with such a project, including contract payments authorized under subsection

(b)(2)(D);

(M) operating expenses authorized under subsection (b)(2)(E);

or

(N) to the extent not otherwise allowed under this chapter,

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1 substance removal or remedial action in a designated unit;
 2 or any combination of these.

3 SECTION 5. IC 6-3.5-7-28 IS ADDED TO THE INDIANA CODE
 4 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 5 1, 2005]: Sec. 28. (a) In addition to actions authorized by section 5
 6 of this chapter, a county council may, using the procedures set
 7 forth in this chapter, adopt an ordinance to impose an additional
 8 county economic development income tax on the adjusted gross
 9 income of county taxpayers. The ordinance imposing the additional
 10 tax must include findings that:

- 11 (1) revenues from the additional tax are needed to pay costs
 12 of the farmland protection program under IC 15-7-10; and
 13 (2) the purposes of the farmland protection program under
 14 IC 15-7-10 are addressed in the county's comprehensive plan,
 15 as defined in IC 36-7-1-5.

16 (b) The tax rate imposed under this section may not exceed one
 17 tenth percent (0.1%).

18 (c) If the county council adopts an ordinance to impose an
 19 additional tax under this section, the county auditor shall
 20 immediately send a certified copy of the ordinance to the
 21 department by certified mail. The amount of county economic
 22 development income tax revenue derived from the tax rate imposed
 23 under this section is deposited in the county's farmland protection
 24 program fund established under IC 15-7-10-15. The remainder is
 25 deposited in the economic development income tax funds of the
 26 county's units.

27 (d) County economic development income tax revenue derived
 28 from the tax rate imposed under this section may not be used for
 29 purposes other than the purpose described in this section.

30 (e) County economic development income tax revenue derived
 31 from the tax rate imposed under this section that is deposited in the
 32 county's farmland protection program fund may not be considered
 33 by the department of local government finance in determining the
 34 county's ad valorem property tax levy for an ensuing calendar year
 35 under IC 6-1.1-18.5.

36 (f) Notwithstanding section 5 of this chapter, an ordinance may
 37 be adopted under this section at any time. If the ordinance is
 38 adopted before June 1 of a year, a tax rate imposed under this
 39 section takes effect July 1 of that year. If the ordinance is adopted
 40 after May 31 of a year, a tax rate imposed under this section takes
 41 effect on the January 1 immediately following adoption of the
 42 ordinance.

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(g) For a county adopting an ordinance before June 1 in a year, in determining the certified distribution under section 11 of this chapter for the calendar year beginning with the immediately following January 1 and each calendar year thereafter, the department shall take into account the certified ordinance mailed to the department under subsection (c). For a county adopting an ordinance after May 31, the department shall issue an initial or a revised certified distribution for the calendar year beginning with the immediately following January 1. Except for a county adopting an ordinance after May 31, a county's certified distribution is distributed on the dates specified under section 16 of this chapter. In the case of a county adopting an ordinance after May 31, the county, beginning with the calendar year beginning on the immediately following January 1, shall receive the entire certified distribution for the calendar year on November 1 of the year.

SECTION 6. IC 15-7-10 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 10. Farmland Protection Program

Sec. 1. As used in this chapter, "assistant commissioner" refers to the assistant commissioner of agriculture appointed under IC 4-4-22-20.

Sec. 2. As used in this chapter, "conservation easement" has the meaning set forth in IC 32-23-5-2.

Sec. 3. As used in this chapter, "council" refers to the Indiana land resources council established by IC 15-7-9-4.

Sec. 4. As used in this chapter, "designated area" refers to an area of land designated under section 10(c) of this chapter in a county in which land may be designated as farmland eligible for the program.

Sec. 5. As used in this chapter, "farmland" includes the following:

(1) Acreage used for the production of:

- (A) food;**
- (B) feed;**
- (C) forage;**
- (D) fiber;**
- (E) dairy products;**
- (F) poultry products; and**
- (G) oilseed crops.**

(2) Acreage used to raise:

- (A) livestock;**

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- 1 (B) dairy animals;
- 2 (C) poultry; and
- 3 (D) furbearing animals.
- 4 (3) Acreage used to:
- 5 (A) grow horticultural and nursery stock;
- 6 (B) grow fruits;
- 7 (C) grow vegetables;
- 8 (D) grow forage;
- 9 (E) grow timber;
- 10 (F) grow trees;
- 11 (G) raise fish and produce other aquaculture products;
- 12 (H) raise bees and produce apiary products; and
- 13 (I) grow other crops used for agricultural income.
- 14 (4) Areas including:
- 15 (A) buildings;
- 16 (B) land modifications;
- 17 (C) wetlands;
- 18 (D) pasture;
- 19 (E) forest land;
- 20 (F) wildlife land;
- 21 (G) riparian areas;
- 22 (H) buffers; and
- 23 (I) other areas;
- 24 that enhance or depend on the inherent productivity of the
- 25 land.
- 26 Sec. 6. As used in this chapter, "livestock" has the meaning set
- 27 forth in IC 4-4-3.2-1(b).
- 28 Sec. 7. As used in this chapter, "program" refers to the
- 29 farmland protection program established by section 9 of this
- 30 chapter.
- 31 Sec. 8. As used in this chapter, "tract" has the meaning set forth
- 32 in IC 6-1.1-1-22.5.
- 33 Sec. 9. The farmland protection program is established to
- 34 provide a voluntary tool to Indiana landowners to protect and
- 35 conserve rural lands, including the following:
- 36 (1) Farmland.
- 37 (2) Other rural natural areas as defined by the council.
- 38 Sec. 10. (a) The council shall administer the program. The
- 39 council shall work with local agencies and organizations to
- 40 establish a cooperative relationship in land use practices and
- 41 policies. The council, after consulting with local agencies and
- 42 organizations, shall develop specific program guidelines and

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1 policies to administer the program. The program must be
 2 compatible with the federal Farm and Ranch Land Protection
 3 Program (7 CFR Part 1491).

4 (b) The council may adopt rules under IC 4-22-2 to implement
 5 the program.

6 (c) The council, working with local agencies and organizations,
 7 shall establish criteria for designated areas on a county by county
 8 basis. Only farmland in a designated area is eligible for the
 9 program. The council may establish designated areas. Before
 10 establishing an area as a designated area, the council shall:

11 (1) hold a hearing, following the procedures for public
 12 hearings under IC 5-14-1.5-5, in the county in which the
 13 farmland is located; and

14 (2) obtain the approval of the local zoning authority that has
 15 jurisdiction over the area, or, if the area is not under the
 16 jurisdiction of any local zoning authority, the county
 17 commissioners of the county in which the area is located.

18 (d) The council shall establish criteria for evaluating
 19 applications for inclusion of farmland in the program, including
 20 the following:

21 (1) At the time of application for inclusion of farmland in the
 22 program, the farmland must:

23 (A) have been in a conservation or an agriculture
 24 production program:

25 (i) at the time of application; and

26 (ii) during the five (5) years immediately preceding the
 27 date of application; and

28 (B) be eligible to become subject to a conservation
 29 easement as described in section 11 of this chapter.

30 (2) Farmland must be in a designated area.

31 (3) Farmland:

32 (A) in a locally recognized agricultural district; or

33 (B) subject to an effective local agricultural protection
 34 initiative;

35 must be given priority for inclusion in the program.

36 (4) Farmland must:

37 (A) consist of at least thirty-five (35) acres;

38 (B) subject to subdivision (5), be included in:

39 (i) one (1) tract; or

40 (ii) one (1) or more contiguous tracts.

41 (5) Larger tracts must be given priority for inclusion in the
 42 program.

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(6) A scoring system similar to the system under the federal Farm and Ranch Land Protection Program (7 CFR Part 1491) shall be developed. There must be a minimum score requirement to qualify for the program that includes consideration of at least the following:

(A) Soil erosion.

(B) Conservation plans, using the federal Natural Resources Conservation Service's quality criteria.

(C) Landowner participation.

(D) Management plans.

(e) A consistent lack of compliance with environmental permits and requirements as determined by the council disqualifies a landowner from the program.

(f) The council may reject an application for inclusion of farmland in the program if the council finds that the parcel of farmland proposed for inclusion was divided from a larger parcel in a transaction intended to defeat the purposes of the program.

Sec. 11. (a) To participate in the program, the landowner must subject the farmland to a conservation easement. The term of the conservation easement must have a duration of at least ten (10) years.

(b) The conservation easement must be recorded in the county recorder's office.

(c) Not more than one (1) time during the period of the conservation easement, the landowner may split one (1) lot of not more than one (1) acre from a tract that is included in the program if the residence of an individual who is farming the tract is located on the lot.

(d) A landowner may not split from a tract that is included in the program land to be used for agricultural, manufacturing, industrial, or commercial purposes unless the split is in keeping with the purpose, principles, and objectives of the program.

Sec. 12. When evaluating applications, the council shall consider any standards for the preservation of farmland developed by:

(1) a county government;

(2) a local planning commission; or

(3) another local entity engaged in planning.

Sec. 13. (a) A landowner may withdraw farmland from the program when the land is entered into another land protection program:

(1) the duration of which is equal to or greater than the remaining term of the conservation easement to which the

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land is subject under section 11 of this chapter; and
 (2) the conditions of which are at least as restrictive as the
 conditions of the program.

(b) If:

(1) a conservation easement to which farmland in the
 program is subject is terminated before the end of the term of
 the easement; and

(2) the farmland is not entered into another land protection
 program under subsection (a);

the land and the landowner are disqualified from inclusion in the
 program for ten (10) years after the date of the termination.

Sec. 14. (a) The farmland protection program account is
 established within the state general fund for the purpose of
 providing money to match federal funds under 7 CFR Part 1491 to
 be used for the protection of farmland in Indiana. The council shall
 administer the account.

(b) The account consists of:

(1) appropriations from the general assembly;

(2) gifts and bequests; and

(3) grants.

(c) The expenses of administering the account are paid from
 money in the account.

(d) The treasurer of state shall:

(1) invest the money in the account not currently needed to
 meet the obligations of the account in the same manner as
 other public money may be invested; and

(2) deposit interest that accrues from the investments under
 subdivision (1) in the account.

(e) Money in the account at the end of a state fiscal year does not
 revert to the state general fund.

(f) Money in the account may be spent only after appropriation
 by the general assembly.

Sec. 15. (a) A county farmland protection program fund is
 established in each county. The fund is administered by the county
 auditor.

(b) The fund consists of:

(1) amounts deposited in the fund under IC 6-3.5-7-28(c);

(2) appropriations from the general assembly;

(3) gifts and bequests; and

(4) grants.

(c) Money in the fund may be used only to pay costs of the
 program, including costs of comprehensive planning that addresses

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the purposes of the program.

Sec. 16. The commissioner of agriculture and the department of commerce shall give owners of farmland in the program priority for state grants or technical assistance.

SECTION 7. IC 32-24-1-5.4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 5.4. (a) Subject to subsection (b), the damages offered by the condemnor with respect to land that is subject to a conservation easement under IC 15-7-10-11 condemned under this article equal two hundred percent (200%) of:**

(1) the fair market value offered under section 5 of this chapter; or

(2) the award made by a court under this article.

(b) This section does not apply to land that is being condemned for a:

(1) highway;

(2) road;

(3) street; or

(4) right-of-way;

under IC 32-24-4-1.

SECTION 8. [EFFECTIVE JULY 1, 2005] **(a) There is appropriated to the farmland protection program account (established by IC 15-7-10-14, as added by this act,) of the state general fund five million dollars (\$5,000,000) from the state general fund for use in carrying out the purposes of IC 15-7-10, as added by this act, for the state fiscal year beginning July 1, 2005, and ending June 30, 2006.**

(b) This SECTION expires July 1, 2006.

SECTION 9. [EFFECTIVE JULY 1, 2005] **IC 6-3.5-7-5, as amended by this act, and IC 6-3.5-7-28, as added by this act, apply only to taxable years beginning after December 31, 2005.**

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